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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/770,118	02/02/2004	Timothy M. Roewe	DACI 3303	9348
321	7590	01/31/2005	EXAMINER	
SENNIGER POWERS LEAVITT AND ROEDEL ONE METROPOLITAN SQUARE 16TH FLOOR ST LOUIS, MO 63102			COHEN, AMY R	
			ART UNIT	PAPER NUMBER
			2859	

DATE MAILED: 01/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

H-A

**Office Action Summary**

Application No.

10/770,118

Applicant(s)

ROEWE, TIMOTHY M.

Examiner

Amy R Cohen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 November 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-7, 10-18, 21-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Eifel (U. S. Patent No. 2,408,974).

Regarding claims 1-7, 21, and 22: Eifel teaches a page indicator (10, 20, 30, 40) for identifying a page (17, 27) having generally perpendicular first and second free edge margins forming a corner of the page, the page indicator comprising: a panel (10, 20) having a front surface and a back surface (Figs. 1-8); a flap (in 10, flaps are created by the slits 11, 12, 13, wherein the slits 11d,e, 12d,e and 13d,e create the extension for the flap part to pivot away from the panel 10; in 20, flaps are created by the slits 21, 22, 23, wherein the slits 21d,e, 22d,e and 23d,e create the extension for the flap part to pivot away from the panel 20) connected to the panel and moveable between a first position wherein said flap is substantially coplanar with said panel and a page receiving position wherein said flap is pivoted away from said panel to provide an opening for receiving said corner of a page (Figs. 1-8 and Col 3, line 56-Col 4, line 53 and Col 6, line 39-Col 7, line 10), the panel having a first edge margin and a second edge margin (14, 24) that are substantially perpendicular (Figs. 1-6), said first and second edge margins of the panel being shaped and arranged relative to the flap such that when the flap receives the page corner, the first panel edge margin projects from and is generally parallel to the first free edge margin of the page and the second panel edge margin projects from and is generally parallel to

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the second free edge margin of the page whereby the page indicator may be engaged adjacent either free edge margin of the page for opening to the page (Figs. 1-6).

Eifel teaches the page indicator wherein said first and second panel edge margins are sized to extend from respective page edge margins by at least about 1/8 of an inch (Figs. 1-6).

Eifel teaches the page indicator wherein said first and second edge margins of the panel define a corner of the indicator, the corner being generally aligned with the corner of the page and with a diagonal line of the page passing through page corner into the corner of the page upon insertion of said the opening (Figs. 1-6).

Eifel teaches the page indicator wherein the back surface of the panel is disposed for contacting with a front surface of the page and a front surface of the flap is disposed for contacting a back surface of the page such that a portion of the panel overlays said page such that the front surface of the panel is visible to a reader of the page (Figs. 1-8).

Eifel teaches the page indicator wherein said flap is disposed within a periphery of the panel such that said opening is defined between the flap and panel (Figs. 1-6), the panel and flap having opposed edges arranged for wedging portions of the page therebetween for holding the page indicator on the page (in 10, flaps are created by the slits 11, 12, 13, wherein the slits 11d,e, 12d,e and 13d,e create the extension for the flap part to pivot away from the panel 10 and wedge portions of the page; in 20, flaps are created by the slits 21, 22, 23, wherein the slits 21d,e, 22d,e and 23d,e create the extension for the flap part to pivot away from the panel 20 and wedge portions of the page).

Eifel teaches the page indicator wherein said opposed edges of the panel and the flap meet at least one junction between the flap and the panel, the at least one junction being adapted

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to engage one of the adjacent page edge margins upon insertion of said page corner into the opening (Figs. 1-6).

Eifel teaches the page indicator wherein said opposed edges of the panel and the flap meet at two junctions within the periphery of the panel, each junction being adapted to engage a respective one of the page edge margins (Figs. 1-6).

Eifel teaches the page indicator wherein said flap is generally rectangular (Figs. 1-3, the flaps created are generally rectangular even though they are bound by wavy lines) and is out of planar registration with the panel at said page receiving position (Figs. 7 and 8).

Eifel teaches the page indicator wherein said flap has a hinge axis for movement of the flap away from the panel, the panel having a free edge margin spaced away from the hinge axis (Figs. 1-8, the hinge axis is created at the end of slits 11d,e, 12d,e and 13d,e, 21d,e, 22d,e and 23d,e).

Regarding claims 10-18, 23, 24: Eifel teaches a page indicator (10, 20, 30, 40) for identifying a page (17, 27) having generally perpendicular first and second free edge margins forming a corner of the page, the page indicator comprising: a panel (10, 20, 30, 40) having a front surface and a back surface and a first edge margin and a second edge margin (14, 24, 34, 44); a flap (in 10, flaps are created by the slits 11, 12, 13, wherein the slits 11d,e, 12d,e and 13d,e create the extension for the flap part to pivot away from the panel 10; in 20, flaps are created by the slits 21, 22, 23, wherein the slits 21d,e, 22d,e and 23d,e create the extension for the flap part to pivot away from the panel 20) connected to the panel and moveable between a first position wherein said flap is substantially coplanar with said panel and a page receiving position wherein said flap is pivoted away from said panel to provide an opening for receiving said corner of the page (Figs. 1-8), the flap having a hinge axis (Figs. 1-8, the hinge axis is created at the end of

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slits 11d,e, 12d,e and 13d,e, 21d,e, 22d,e and 23d,e) for movement of the flap away from the panel and a centerline passing through the hinge axis (Figs. 1-6), the flap being arranged relative to the first and second edge margins of the panel such that said centerline of the flap is non-perpendicular to the first and second edge margins of the panel (Figs. 1-6).

Eifel teaches the page indicator wherein said first and second edge margins of the panel define a corner of the indicator (Figs. 1-6), the corner being located generally on a diagonal line of the page passing through the corner of the page upon insertion of said page corner into the opening (Figs. 1-6).

Eifel teaches the page indicator wherein said flap centerline and said corner of the indicator are generally aligned (Figs. 1-6).

Eifel teaches the page indicator wherein said first and second panel edge margins are sized to extend from respective page edge margins by at least about 1/8 of an inch (Figs. 1-6).

Eifel teaches the page indicator wherein the back surface of the panel is disposed for contacting with a front surface of the page and a front surface of the flap is disposed for contacting a back surface of the page such that a portion of the panel overlays said page such that the front surface of the panel is visible to a reader of the page (Figs. 1-8).

Eifel teaches the page indicator wherein said flap is disposed within a periphery of the panel such that said opening is defined between the flap and panel, the panel and flap having opposed edges arranged for wedging portions of the page therebetween for holding the page indicator on the page (Figs. 1-8).

Eifel teaches the page indicator wherein said opposed edges of the panel and the flap meet at least one junction between the flap and the panel, the at least one junction being adapted

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to engage one of the adjacent page edge margins upon insertion of said page corner into the opening (Figs. 1-6).

Eifel teaches the page indicator wherein said opposed edges of the panel and the flap meet at two junctions within a periphery of the panel, each junction being adapted to engage a respective one of the page edge margins (Figs. 1-6).

Eifel teaches the page indicator wherein said junctions are substantially aligned with said hinge axis of the flap (Figs. 1-6).

Eifel teaches the page indicator wherein said flap is generally rectangular (Figs. 1-3, the flaps created are generally rectangular even though they are bound by wavy lines) and is out of planar registration with the panel at said page receiving position (Figs. 7 and 8).

Eifel teaches the page indicator wherein said flap has a free edge margin spaced away from said hinge axis (Figs. 1-6).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 8, 9, 19, 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eifel in view of Wilson (U. S. Patent No. 2,633,372).

Eifel discloses the page indicator as described above in paragraph 2 and wherein the page indicator comprises any suitable resilient material such as paper, fiber, celluloid, etc (Col 3, lines 56-62).

Eifel does not disclose a page indicator wherein said panel is made at least in part of leather; wherein said panel is made at least in part of vinyl.

Wilson discloses a page indicator wherein said panel is made at least in part of leather, oilcloth, paper, cellophane, celluloid, plastics (which include vinyl), or metal (Col 4, lines 42-67).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to specify that the page marker of Bush et al. be partly of leather or vinyl, as taught by Wilson, since these are both durable, light, and flexible materials which would be easily drawn over a corner of a page, and since Wilson teaches that these materials are equivalent in the art (Col 4, lines 42-67).

### ***Response to Arguments***

5. Applicant's arguments with respect to claims 1-24 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following application and patents disclose page indicators Rae (U. S. PG PUB 2002/0166497), Tinklenberg et al. (U. S. Patent No. 6,058,639), Domingo (U. S. Patent No. 5,152,553), Voetsch (U. S. Patent Des. 305,036), Hupp et al. (U. S. Patent No. 3,381,654), Solis Bonilla (U. S. Patent No. 2,778,331), and Kingman (U. S. Patent No. 2,717,572).



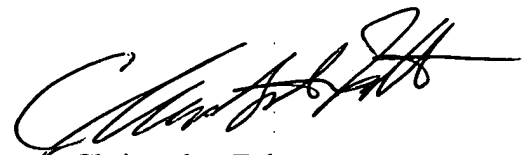
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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amy R Cohen whose telephone number is (571) 272-2238. The examiner can normally be reached on 8 am - 5 pm, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F. Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ARC  
January 27, 2005



Christopher Fulton  
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